

## FOR YOUR INFORMATION

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In December 2012, Egypt approved a new constitution by referendum.

How does it measure up to [international standards for constitutional freedom of religion](#) and related rights? The U.S. Commission on International Religious Freedom (USCIRF), which I chair, analyzed an English translation from *Egypt Independent*, a multimedia news website which published a draft identical to the constitution's final version.

Egypt's new constitution includes problematic provisions pertaining to the religion-state relationship, religious freedom and related liberties guaranteed under international law.

## ***Religion/State***

Article 2 of the new constitution includes the words, "Islam is the religion of the state..." These words were found in both the previous and the interim constitutions. To be sure, international standards allow for state religions and many states have them. However, no official religion may be used either to deny the rights of individuals who do not follow it or to discriminate against them or their religious beliefs.

Article 2 further states that "[t]he principles of Islamic Sharia are the principal source of legislation." This language also was found in both the prior and the interim constitutions, but in the new constitution, the issue is further discussed in Article 219: "The principles of Islamic Sharia include general evidence, foundational rules, rules of jurisprudence, and credible sources accepted in Sunni doctrines and by the larger community." This raises the question of the standing of other Muslim doctrines in Egyptian law and favors the interpretations of one school of Sunni Islam over all others.

Article 3 states that "[t]he canon principles of Egyptian Christians and Jews are the main source of legislation for their personal status laws, religious affairs, and the selection of their spiritual leaders." By limiting personal status law to Christian and Jewish principles, this provision fails to address the status of members of other religious groups and of people who follow no religion.

Article 4 reads, "...Al-Azhar [University] Senior Scholars are to be consulted in matters pertaining to Islamic law." When read together with Article 2, these words potentially give religious scholars a role in reviewing government legislation.

Article 60 says, "Religious education and national history are core subjects of pre-university education in all its forms." To comply with international standards, schools will have to implement this in a non-discriminatory way.

Articles 86, 137, and 157 require that the President, Prime Minister, cabinet ministers and members of the People's Assembly and Shura Council "swear to Almighty God" in the oath of office. This requirement violates the religious freedom rights of and discriminates against people who do not believe in God.

### ***Freedom of Religion***

Egypt's new constitution also includes provisions addressing the specific right of religious

freedom.

Article 43 reads: "Freedom of belief is an inviolable right. The State shall guarantee the freedom to practice religious rites and to establish places of worship for the divine religions, as regulated by law."

This provision contains some key flaws. It limits protections to "rites" and places of worship; international standards protect a much broader range of activities and expression. It restricts them to followers of the "divine" religions, excluding those of other religions, as well as atheists and agnostics. And there is no mention of the right to change one's religion or the right of parents to raise their children consistent with their own religion or belief.

### ***Defamation of Religion***

The text also includes language regarding the "defaming" of religion.

Article 44 states that "insult or abuse of all religious messengers and prophets shall be prohibited." This ban is supported by Article 31, which says that "[i]nsulting or showing contempt toward any human being shall be prohibited." Under international human rights law, these are clearly impermissible restrictions on freedom of expression.

Granted, Article 45 says “freedom of thought and opinion shall be guaranteed,” also adding “every individual has the right to express an opinion and to disseminate it verbally, in writing or illustration, or by any other means of publication and expression.” Unfortunately, the words in Articles 44 and 31 appear to limit this provision.

### ***Other Limitations***

Finally, Egypt's new constitution contains language which could impact a host of internationally guaranteed freedoms.

According to Article 10, “The family is the basis of society and is founded on religion, morality, and patriotism. The State is keen to preserve the genuine character of the Egyptian family, its cohesion and stability, and to protect its moral values, all as regulated by law.” Since the article fails to define “the genuine character” of a family, it could allow discrimination against women based on religious interpretations or perceived cultural norms.

Article 11 says that “[t]he State shall safeguard ethics, public morality and public order, and foster a high level of education and of religious and patriotic values, scientific thinking, Arab culture, and the historical and cultural heritage of the people; all as shall be regulated by law.”

Article 12 adds that “[t]he State shall safeguard the cultural and linguistic constituents of society, and foster the Arabization of education, science and knowledge.”

These vague and broad provisions give the government leeway to restrict a plethora of human rights on impermissible grounds.

Article 81 states that “[r]ights and freedoms pertaining to the individual citizen shall not be subject to disruption or detraction. No law that regulates the practice of the rights and freedoms shall include what would constrain their essence. Such rights and freedoms shall be practiced in a manner not conflicting with the principles pertaining to State and society included in Part I of this Constitution.”

Part I includes establishing Islam as the official religion and the principles of Islamic sharia as the main source of legislation, as well as the vague and broad Articles 10 and 11 discussed above. Coupled with Article 219’s conservative interpretation of Islamic legal principles, this sentence could open the door to multiple restrictions.

## ***Conclusion***

Taken together, these articles raise questions about the Egyptian government's positions on religious freedom and related rights. Given Egypt's pivotal importance in the Middle East, the example it sets could influence the direction of neighboring states—for or against freedom—for years to come.

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